

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TYROSH BROWN,)
Plaintiff,)
)
) No. 1:12-cv-735
-v-)
)
CITY OF GRAND RAPIDS,) HONORABLE PAUL L. MALONEY
Defendant.)
)

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff Tyrosh Brown, pro se, filed this lawsuit against the City of Grand Rapids. Because Brown has been granted leave to proceed *in forma pauperis*, the magistrate judge reviewed the complaint under 28 U.S.C. § 1915(e)(2). The magistrate judge issued a report recommending that the complaint be dismissed under the doctrine of claim preclusion. (ECF No. 5 “R&R”.) The magistrate judge concluded that Brown had filed an identical complaint in *Brown v. City of Grand Rapids*, No. 1:10-cv-732 (“*Brown I*”) and that the claims in that lawsuit had been adjudicated on the merits.

Brown filed an objection. (ECF No. 6.) Brown asserts that this lawsuit was only against the City of Grand Rapids, which had been “excused” from the earlier lawsuit.

Brown’s objection is OVERRULED. Defendant City of Grand Rapids was not “excused” from the prior lawsuit. In the earlier lawsuit, Judge Robert Holmes Bell granted the City’s motion for summary judgment and dismissed Brown’s claims against the City. (*Brown I* ECF No. 32 “Order” Sept. 8, 2011.) The City’s motion for summary judgment was decided on the merits. (*Brown I* ECF No. 31 “Opinion” at 6.) The Sixth Circuit Court of Appeals has repeatedly held that decisions on the merits in one lawsuit bar the identical claim in subsequent lawsuits, even when the plaintiff is proceeding pro se. *See, e.g., Omeli v. Whitman*, 72 F. App’x 420 (6th Cir. 2003) (order);

Wolfe v. Norfolk Southern Railway Co., 66 F. App'x 532, 534 (6th Cir. 2003) (per curiam); *Watts v. Fed. Express Corp.*, 53 F. App'x 333, 334-35 (6th Cir. 2002) (order).

Therefore, the report and recommendation (ECF No. 5) is **ADOPTED over objections** as the opinion of this Court. The complaint is dismissed on the ground of *res judicata*. **IT IS SO ORDERED.**

The Court finds that any appeal would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3). These issues were resolved against Brown in the earlier action and his remedy was to appeal the decision in the earlier case.

Date: August 24, 2012

/s/ Paul L. Maloney

Paul L. Maloney
Chief Judge
United States District Court